

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Case Nos. 3:13-cr-00056-MMD-CLB

v.

Plaintiff,

ROSENDO SALGADO,

ORDER

Defendant.

Defendant Rosendo Salgado was indicted on three counts: (1) conspiracy to possess methamphetamine with the intent to distribute in violation of 21 U.S.C. § 841 and § 846; (2) conspiring to launder money in violation of 18 U.S.C. § 1956; and (3) illegal use of a communication facility in violation of 21 U.S.C. § 843. (ECF No. 4.) The jury found Salgado guilty on all three counts. (ECF No. 75.) The Court sentenced Salgado to 235 months as to counts 1 and 2, and 48 months as to count 3—to run concurrently to counts 1 and 2. (ECF No. 81.) Before the Court is Salgado's *pro se* motion for a sentence reduction under 18 U.S.C. § 3582(c) ("Motion"), seeking a retroactive sentencing reduction under United States Sentencing Commission Guideline Amendment 821 ("Amendment 821"), Part B. (ECF No. 128 ("Motion").) The Federal Public Defender for the District of Nevada ("FPD") filed a Notice of Non-Eligibility ("Notice") under the Court's Second Amended General Order 2023-09 ("GO 2023-09").¹ (ECF No. 132.) The Notice indicates that Salgado is not eligible for a sentencing reduction because he received an aggravating role adjustment under U.S.S.G. § 3B1.1. (*Id.*) After a review of the records,

¹GO 2023-09 presumptively appoints the FPD to represent any defendant who qualifies for appointment of counsel to determine whether that defendant qualifies for retroactive relief under Amendment 821. The General Order establishes a process for the FPD to review a *pro se* motion for sentencing reduction, including informing the Court and the defendant whether the defendant is eligible for a sentencing reduction.

1 including the Presentence Investigation Report, the Court finds that Salgado is not eligible
2 for a sentencing reduction and denies the Motion.

3 Part B, Subpart 1 of Amendment 821 creates new Chapter Four guidelines at §
4 4C1.1, decreasing by two the offense levels for a defendant who did not receive any
5 criminal history points and whose pertinent offense did not involve specific aggravating
6 factors. But here, Salgado's offense involved a specific aggravating role, resulting in 2-
7 level enhancement, under U.S.S.G. § 3B1.1. See U.S.S.G. § 4C1.1(a)(10) (disqualifying
8 defendants who received "an adjustment under § 3B1.1 (Aggravating Role)"). The Court
9 applied the aggravating role enhancement (as leader, organizer) at the sentencing
10 hearing, overruling Salgado's objection. (ECF No. 90 at 13-15.) Accordingly, Salgado
11 does not qualify for a sentencing reduction.

12 For the foregoing reasons, the Court denies Salgado's motion for a sentence
13 reduction (ECF No. 128).

14 DATED THIS 28th Day of August 2024.

2024.

MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE